IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6491 OF 2005

M/s.Shagun International & Ors....Petitioners

Versus

Canara Bank.....Respondent

Mr. Simil Purohit with Mr. Ruben Fernandes and Mr. P.D. Kadam, for the Petitioners
Mr. Umesh Shetty for respodnent

CORAM: F.I. REBELLO &
DR.D.Y. CHANDRACHUD, JJ.
DATE : 4TH OCTOBER, 2005

P.C.:

. We have heard learned Counsel for the parties. The learned Appellate Tribunal after considering the plea of the petitioners for waver has recorded a finding that the petitioners herein have not tendered the income tax returns nor have made out a case of undue financial hardship. However, the Appellate Tribunal has reduced the deposit from 75% to 50%. The learned Counsel took us through the order of the Tribunal to point out that their defences were not considered. That will be an issue which will be considered in Appeal. There is a letter from the Surveyor which sets out that both the certificates which were produced by the petitioner were not issued by them. The petitioners dispute the correctness of the said letter. At any rate that will have to be gone into in the Appeal. Considering what has been

set out above this will not be a fit case for this Court to exercise the extra ordinary jurisdiction. Hence petition rejected.

2. In the meantime the Appeal has been disposed of for failure to comply with the order of deposit. If the petitioners within six weeks from today deposit the said amount the order dismissing the Appeal stands set aside and the Appeal will stand restored and be heard on merits.

(F.I.REBELLO, J.)

(DR. D.Y. CHANDRACHUD, J.)